

**FOX ROTHSCHILD LLP**

**Formed in the Commonwealth of Pennsylvania**

By: Jeffrey M. Pollock, Esquire

Jack L. Kolpen, Esquire

Princeton Pike Corporate Center

997 Lenox Drive, Building 3

Lawrenceville, NJ 08648-2311

(609) 896-3600

Attorneys for Plaintiff C.R. Bard, Inc.

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

C.R. BARD, INC.,

Plaintiff,

v.

LIBERTY MUTUAL INSURANCE COMPANY,

Defendant.

Civil Action No. 2:07-1895 (JAG) (MCA)

**PRETRIAL SCHEDULING ORDER**

THIS MATTER having come before the Court pursuant to an in-person Case Management Conference held on July 30, 2009; Jeffrey M. Pollock, Esq. and Irina B. Elgart, Esq., appearing on behalf of Plaintiff; and John C. Sullivan, Esq., appearing on behalf of Defendant; and for good cause shown:

IT IS on this 10 day of Sept, 2009

**ORDERED THAT:**

**I. DISCOVERY AND MOTION PRACTICE**

1. This Order supersedes the Pretrial Scheduling Order entered in this matter.

2. Discovery is to remain open through **December 31, 2009**. No discovery is to be issued or engaged in beyond that date, except upon application and for good cause shown.

3. The parties will file additional briefing with respect to the discovery issues that were the subject of the Case Management Conference before the Court on July 30, 2009. With respect to Plaintiff's requests for other insured's claims files and communications between Liberty Mutual and its reinsurer, Plaintiff's brief will be filed and served by **October 2, 2009** and Defendant's responsive brief (together with a Certification of defendant with regard to the burdensomeness) will be filed and served by **October 9, 2009**. With respect to Defendant's requests for settlement information, draft expert reports and draft summary judgment motions, Defendant's brief will be filed and served by **October 2, 2009** and Plaintiff's responsive brief will be filed and served by **October 9, 2009**. To the extent Plaintiff claims that documents requested by Defendant are privileged, said documents shall be made available to the Court for in camera review at the in-person Case Management Conference scheduled on October 20, 2009 at 10:30 a.m.

---

4. No objections to questions posed at depositions shall be made other than as to lack of foundation, form or privilege. See Fed. R. Civ. P. 32(d) (3)(A). No instruction not to answer shall be given unless a privilege is implicated.

5. Any discovery dispute shall be brought to the Court's attention in the first instance by letter or by telephone conference call immediately after the parties' good faith attempt to resolve the dispute has failed. See L. Civ. R. 16.1(f)(1).

6. Other than as set forth in paragraph 7, no motions shall be filed without leave of Court. If a party wishes to file a motion, he or she should write a letter to the Magistrate Judge explaining the basis of the motion and the Court will advise as to how to proceed.

7. Dispositive motions shall not be filed until thirty (30) days after the close of expert discovery pursuant to paragraphs 8 and 9. Failure to file dispositive motions within that time frame shall result in their dismissal as untimely.

## II. EXPERTS

8. All affirmative expert reports shall be delivered by **February 15, 2010**, with depositions of those experts to be taken and completed **within twenty (20) days of receipt of report**. See Fed. R. Cir. P. 26(b) (4) (A). Any such report is to be in the form and content as required by Fed. R. Civ. P. 26(a) (2) (B).

9. All responding expert reports shall be delivered by **April 1, 2010**, with depositions of those experts to be taken and completed **within twenty (20) days of receipt of report**. Any such report shall be in the form and content as described above.

10. No expert shall testify at trial as to any opinions or base those opinions on facts not substantially disclosed in his report.

## III. FINAL PRETRIAL CONFERENCE

11. A final pretrial conference shall be conducted pursuant to Civil Rule 16(d) at a **time and date to be assigned**.

12. Pursuant Judge Greenaway's form of Final Pretrial Order, all pretrial submissions must be served upon the Court **forty-eight (48) hours** prior to the final pretrial conference.

13. All counsel are directed to assemble at the office of Plaintiffs counsel not later than ten (10) days before the pretrial conference to prepare the proposed Final Pretrial Order in

the form and content required by the Court, as well as the required pretrial submissions consisting of agreed- upon jury instructions, voir dire questions, verdict sheet, trial briefs and a neutral statement of the case to be read to the jury panel, all of which must be submitted forty-eight (48) hours before the final pretrial conference. Plaintiff's counsel shall prepare the Pretrial Order and shall submit it to all other counsel for approval.

14. With respect to non jury trials, each party shall submit to the District Judge and to opposing counsel proposed Findings of Fact and Conclusions of Law, trial briefs and any hypothetical questions to be put to an expert witness on direct examination.

15. The original of the Final Pretrial Order shall be delivered to Chambers not later than **forty-eight (48)** hours before the pretrial conference, along with all pretrial submissions and trial briefs. All counsel are responsible for the timely submission of the Pretrial Order and submissions.

#### IV. MISCELLANEOUS


16. The Court may from time to time schedule conferences as may be required, either sua sponte or at the request of a party.

17. Since all dates set forth herein are established with the assistance and knowledge of counsel, there will be no extensions except for good cause shown and by leave of Court, even with consent of all counsel.

18. A copy of every pleading, document or written communication with the Court shall be served on all other parties to the action.

19. There shall be an in-person Case Management Conference before the undersigned on **October 20, 2009 at 10:30 a.m.**

20. **FAILURE TO FOLLOW THIS DISCOVERY SCHEDULE WILL RESULT  
IN SANCTIONS PURSUANT TO Fed. R. Civ. P. 16(f) and 37.**



**MADELINE COX ARLEO**  
**United States Magistrate Judge**

Original: Clerk of the Court  
cc: All Parties  
Deputy Clerk  
File